

AMENDED IN ASSEMBLY AUGUST 25, 2000

AMENDED IN ASSEMBLY AUGUST 11, 2000

SENATE BILL

No. 2202

**Introduced by Committee on Environmental Quality
(Senators Sher (Chair), Alarcon, Alpert, Chesbro, Hayden,
McPherson, O'Connell, Rainey, Solis, and Wright)**

March 29, 2000

An act to ~~amend Sections 40503, repeal Section 12171 of the Public Contract Code, and to amend Sections 40912, 41770, 41780, 41821, 41821.1, 41821.5, and 41825 of, and to add 41825, and 41850 of, to amend, repeal, and add Section 41821.2 of, and to add Sections 40502.1 and 40977 to, the Public Resources Code, relating to recycling, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 2202, as amended, Committee on Environmental Quality. Solid waste management: *diversion*: reports.

(1) The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. Under existing law, the act requires each city, county, city and county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components. For the first revision of the element, those entities are required to divert, by January 1, 2000, from disposal or transformation, 50% of the solid waste

through source reduction, recycling, and composting subject to the element, except as specified.

This bill would *require the first and each subsequent revision to provide for this diversion on and after January 1, 2000, and would* require the board by July 1, 2001, to develop a model revised source reduction and recycling element. The bill would require the board to provide local jurisdictions and private businesses with information, tools, and mathematical models to assist with meeting or exceeding the diversion requirement.

(2) Existing law requires a city, county, or regional agency to submit an annual report to the board summarizing its progress in diverting solid waste from disposal. The report is required to include, among other things, information relevant to compliance with the solid waste diversion requirements.

This bill would authorize a city, county, or regional agency to include, in the report, information about existing and new programs that are not part of the original or modified source reduction and recycling element. The bill would also authorize those entities to include information regarding any factor that the jurisdiction believes affects the accuracy of the waste reduction calculations in the report to accurately reflect the changes in the amount of solid waste that is actually disposed, and information regarding certain programs that are being undertaken by the jurisdiction. The bill would authorize a jurisdiction to also provide the board, in the report, an estimate that jurisdiction believes reflects that jurisdiction's annual reduction or increase in the disposal of solid waste. The bill would require the board to ~~establish~~ *adopt* procedures for requiring additional information in the report and *conferring with jurisdiction regarding the implementation of a diversion program or* the calculations of the annual disposal reduction.

(3) Existing law requires a county or regional agency to submit an annual report to the board summarizing the adequacy of the siting element and summary plan.

This bill would require the board to ~~establish~~ *adopt* procedures to authorize a jurisdiction to submit ~~the an abbreviated version of the report~~ *once every 2 years*, if the board determines that jurisdiction meets specified conditions.

(4) Existing law requires a community service district that provides solid waste handling services or that implements source reduction and recycling programs to provide the city, county, or regional agency in which it is located information on the programs implemented by the district and the amount of waste disposed and diverted within the district. *Existing law authorizes a city or county to form a regional agency with another city or county for purposes of complying with the act.*

This bill would, as of July 1, 2001, ~~revise the definition of the term district, for this purpose, to include a county sanitation district or sanitary district, and information that a district is required to provide and~~ would require a district to comply with ~~programs to implement~~ the source reduction and recycling element and household hazardous waste element of the jurisdiction in which the district is located. *The bill would authorize a district to impose a fee, in a specified manner, for the costs of complying with these requirements.* The bill would impose a state-mandated local program by imposing new duties upon local agencies.

The bill would authorize the imposition of penalties upon a district in proportion to the districts' responsibility for its failure to implement those elements.

This bill would allow a regional agency to authorize such a district to be included as a member of the regional agency.

(5) Existing law requires disposal facility operators and recycling and composting facilities to submit periodic tracking information to counties.

This bill would require the board to submit a report to the Legislature by ~~July 1, 2001~~ *January 1, 2002*, evaluating the implementation of the periodic tracking survey requirements.

(6) Existing law authorizes the board to issue an order of compliance with a specific schedule for achieving compliance, if the board finds that the city, county, or regional agency has failed to implement its source reduction and recycling element or its household hazardous waste element.

This bill would require the board to ~~establish procedures for issuing~~ *issue* a notice of intent ~~of the board's intent~~, pursuant to a specified procedure, at least 30 days before the board holds a hearing to issue an order of compliance.

~~(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions. Existing law, which is repealed on January 1, 2001, requires all state agencies to purchase specified recycled products, including rerefined automotive lubricants, recycled antifreeze fluid, recycled solvent, and recycled paint, instead of nonrecycled products, whenever the recycled products are available at the same cost, or at a lower cost, than the total costs of the nonrecycled products.~~

~~This bill would delete the provision repealing those provisions on January 1, 2001, thereby continuing those requirements indefinitely.~~

~~(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~(8)~~

~~(9) The bill would also declare that it is to take effect immediately as an urgency statute.~~

~~Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.~~

The people of the State of California do enact as follows:

~~1 SECTION 1. Section 40503 of the Public Resources
2 Code is amended to read:
3 40503. The board shall maintain its headquarters in
4 the County of Sacramento, and may establish regional~~

~~offices in any part of the state that the board deems necessary, including a regional office in southern California to provide solid waste facilities permitting and enforcement activities, local planning and assistance activities, and any other activities the board deems appropriate to cities, counties, and regional agencies.~~

~~SEC. 2.—~~

SECTION 1. Section 12171 of the Public Contract Code is repealed.

~~12171. This article shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2001, deletes or extends that date.~~

SEC. 2. Section 40502.1 is added to the Public Resources Code, to read:

40502.1. Notwithstanding Section 40502, the adoption of procedures by the board pursuant to subdivision (e) of Section 41821 and subdivision (b) of Section 41821.1 is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 40912 of the Public Resources Code is amended to read:

40912. (a) The board shall develop a model countywide or regional siting element and a model countywide or regional agency integrated waste management plan that will establish prototypes of the content and format that counties or regional agencies may use in meeting the requirements of this part.

(b) On or before July 1, 2001, the board shall develop a model revised source reduction and recycling element that will establish prototypes of the content and format of that element that cities, counties, regional agencies, or a city and county may use in meeting the requirements of this part.

(c) The board shall adopt a program to provide assistance to cities, counties, regional agencies, or a city and county in the development and implementation of source reduction programs. The program shall include, but not be limited to, the following:

1 (1) The development of model source reduction
2 programs and strategies that may be used at the local and
3 regional level.

4 (2) Ongoing analysis of public and private sector
5 source reduction programs that may be provided to cities,
6 counties, regional agencies, and a city and county in order
7 to assist them in complying with Article 3 (commencing
8 with Section 41050) of Chapter 2 and Article 3
9 (commencing with Section 41350) of Chapter 3.

10 (3) Assistance to cities, counties, regional agencies,
11 and a city and county in the development of source
12 reduction programs for commercial and industrial
13 generators of solid waste that include the development of
14 source reduction strategies designed for specific types of
15 commercial and industrial generators.

16 (d) The board shall, to the maximum extent feasible,
17 utilizing existing resources, provide local jurisdictions
18 and private businesses with information, tools, and
19 mathematical models to assist with meeting or exceeding
20 the 50-percent diversion requirement pursuant to
21 Section 41780. The board shall act as a solid waste
22 information clearinghouse.

23 ~~SEC. 3.—~~

24 *SEC. 4. Section 40977 is added to the Public Resources*
25 *Code, to read:*

26 *40977. A regional agency may authorize one district,*
27 *as defined in subdivision (a) of Section 41821.2, to be*
28 *included as a member of the regional agency.*

29 *SEC. 5. Section 41770 of the Public Resources Code is*
30 *amended to read:*

31 41770. (a) Each countywide or regional agency
32 integrated waste management plan, and the elements
33 thereof, shall be reviewed, revised, if necessary, and
34 submitted to the board every five years in accordance
35 with the schedule set forth under Chapter 7
36 (commencing with Section 41800).

37 (b) Any revisions to a countywide or regional agency
38 integrated waste management plan, and the elements
39 thereof, shall use a waste disposal characterization
40 method that the board shall develop for the use of the city,

1 county, city and county, or regional agency. The city,
2 county, city and county, or regional agency shall conduct
3 waste disposal characterization studies, as prescribed by
4 the board, if it fails to meet the diversion requirements of
5 Section 41780, at the time of the five-year revision of the
6 source reduction and recycling element.

7 (c) The board may review and revise its regulations
8 governing the contents of revised source reduction and
9 recycling elements to reduce duplications in one or more
10 components of these revised elements.

11 ~~SEC. 4.—~~

12 *SEC. 6. Section 41780 of the Public Resources Code is*
13 *amended to read:*

14 41780. (a) Each city or county source reduction and
15 recycling element shall include an implementation
16 schedule which shows both of the following:

17 (1) For the initial element, the city or county shall
18 divert 25 percent of all solid waste from landfill disposal
19 or transformation by January 1, 1995, through source
20 reduction, recycling, and composting activities.

21 (2) Except as provided in Sections 41783, 41784, and
22 41785, for the first *and each subsequent* revision of the
23 element, the city or county shall divert 50 percent of all
24 solid waste ~~by~~ *on and after* January 1, 2000, through source
25 reduction, recycling, and composting activities.

26 (b) Nothing in this part prohibits a city or county from
27 implementing source reduction, recycling, and
28 composting activities designed to exceed these goals.

29 *SEC. 7. Section 41821 of the Public Resources Code is*
30 *amended to read:*

31 41821. (a) (1) Each year following the board's
32 approval of a city, county, or regional agency's source
33 reduction and recycling element, household hazardous
34 waste element, and nondisposal facility element, the city,
35 county, or regional agency shall submit a report to the
36 board summarizing its progress in reducing solid waste as
37 required by Section 41780.

38 (2) The annual report shall be due on or before August
39 1 of the year following board approval of the source
40 reduction and recycling element, the household

1 hazardous waste element, and the nondisposal facility
2 element, and on or before August 1 in each subsequent
3 year. The information in this report shall encompass the
4 previous calendar year, January 1 to December 31,
5 inclusive.

6 (b) Each jurisdiction's annual report to the board shall,
7 at a minimum, include the following:

8 (1) Calculations of annual disposal reduction.

9 (2) Information on the changes in waste generated or
10 disposed of due to increases or decreases in population,
11 economics, or other factors in complying with subdivision
12 (c) of Section 41780.1.

13 (3) A summary of progress made in implementing the
14 source reduction and recycling element and the
15 household hazardous waste element. The city, county, or
16 regional agency may also include information about
17 existing and new programs it is implementing that are not
18 part of the original or modified source reduction and
19 recycling element adopted by the jurisdiction and
20 approved by the board to achieve the diversion
21 requirements of Section 41780.

22 (4) If the jurisdiction has been granted a time
23 extension by the board pursuant to Section 41820, the
24 jurisdiction shall include a summary of progress made in
25 meeting the source reduction and recycling element
26 implementation schedule pursuant to paragraph (2) of
27 subdivision (a) of Section 41780 and complying with the
28 jurisdiction's plan of correction, prior to the expiration of
29 the time extension.

30 (5) If the jurisdiction has been granted an alternative
31 source reduction, recycling, and composting
32 requirement pursuant to Section 41785, the jurisdiction
33 shall include a summary of progress made towards
34 meeting the alternative requirement as well as an
35 explanation of current circumstances that support the
36 continuation of the alternative requirement.

37 (6) Other information relevant to compliance with
38 Section 41780.

39 (c) A jurisdiction may also include, in the report
40 required by this section, all of the following:



(1) Any factor that the jurisdiction believes would affect the accuracy of the estimated waste disposal reduction calculation provided in the report pursuant to paragraph (1) of subdivision (b) to accurately reflect the changes in the amount of solid waste that is actually disposed. The jurisdiction may include, but is not limited to including, all of the following factors:

(A) Whether the jurisdiction hosts a solid waste facility.

(B) The effects of self-hauled waste and construction and demolition waste.

(C) The original or subsequent base year calculation, the amount of orphan waste, and the waste disposal reduction adjustment methodology.

(2) Information regarding the programs the jurisdiction is undertaking to respond to the factors specified in paragraph (1), and why it is not feasible to implement programs to respond to other factors that affect the amount of waste that is disposed.

(3) An estimate that the jurisdiction believes reflects that jurisdiction's annual reduction or increase in the disposal of solid waste.

(d) The board shall use, but is not limited to the use of, the annual report in the determination of whether the jurisdiction's source reduction and recycling element needs to be revised.

~~(e) The board shall establish~~ (1) *The board shall adopt* procedures for requiring additional information in a jurisdiction's annual report. The procedures shall require the board to notify a jurisdiction of any additional required information no later than 120 days after the board receives the report from the jurisdiction.

~~(f) The board shall establish procedures for meeting and conferring with jurisdictions regarding changes to a~~

(2) *Paragraph (1) does not prohibit the board from making additional requests for information in a timely manner. A jurisdiction receiving such a request for information shall respond in a timely manner.*

(f) *The board shall adopt procedures for conferring with a jurisdiction regarding the implementation of a*

1 *diversion program or changes to a jurisdiction's*
2 *calculation of its annual disposal reduction.*

3 ~~SEC. 5.~~

4 *SEC. 8.* Section 41821.1 of the Public Resources Code
5 is amended to read:

6 41821.1. (a) Each year following the board's approval
7 of a county or regional agency's siting element and
8 summary plan, the county or regional agency shall submit
9 a report to the board summarizing the adequacy of the
10 siting element and summary plan. The report on the
11 siting element shall discuss any changes in disposal
12 capacity, disposal facilities, or any other relevant issues.
13 The annual report shall be due on or before August 1 of
14 the year following board approval of a county or regional
15 agency's siting element and summary plan, and on or
16 before August 1 in each subsequent year. The information
17 in this report shall encompass the previous calendar year,
18 January 1 to December 31, inclusive.

19 ~~(b) The board shall establish procedures that~~
20 ~~authorize a jurisdiction to submit the report required~~
21 ~~pursuant to this section once every two years, if the~~

22 *(b) The board shall adopt procedures that may*
23 *authorize a jurisdiction to submit an abbreviated version*
24 *of the report required pursuant to this section, if the*
25 *board determines that the jurisdiction has met or*
26 *exceeded the requirements of paragraph (2) of*
27 *subdivision (a) of Section 41780 for the previous two*
28 *years, and if the board determines that the jurisdiction*
29 *has otherwise complied with this division for the previous*
30 *five years.*

31 ~~SEC. 6.~~

32 *SEC. 9.* Section 41821.2 of the Public Resources Code
33 is amended to read:

34 41821.2. (a) For the purposes of this section,
35 "district" means a community service district that
36 provides solid waste handling services or implements
37 source reduction and recycling programs.

38 (b) Notwithstanding any other law, each district shall
39 provide the city, county, or regional agency in which it is
40 located, information on the programs implemented by

the district and the amount of waste disposed and diverted within the district. The board may adopt regulations pertaining to the format of the information to be provided and deadlines for supplying this information to the city, county, or regional agency so that it may be incorporated into the annual report submitted to the board pursuant to Section 41821.

(c) This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute that is enacted before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 7.~~

SEC. 10. Section 41821.2 is added to the Public Resources Code, to read:

41821.2. (a) For the purposes of this section, “district” means a community service district, ~~county~~ ~~sanitation district~~, or sanitary district that provides solid waste handling services or implements source reduction and recycling programs.

(b) Notwithstanding any other law, each district shall do all of the following:

~~(1) Comply with programs, as required by the city, county, or regional agency in which it is located, to implement that jurisdiction’s source reduction and recycling element and household hazardous waste element.~~

(1) Comply with the source reduction and recycling element and the household hazardous waste element of the city, county, or regional agency in which the district is located, as required by the city, county, or regional agency. The city, county, or regional agency shall notify a district of any program that it is implementing or modifying when it annually submits a report to the board pursuant to Section 41821.

~~(2) Provide the each city, county, or regional agency in which it is located, information on the programs implemented by the district and, the amount of waste disposed and diverted within the district.~~ *disposed and reported to the disposal tracking system pursuant to*

1 *Section 41821.5 for each city, county, or regional agency,*
2 *and the amount of waste diverted by the district for each*
3 *city, county, or regional agency.*

4 (c) The board may adopt regulations pertaining to the
5 format of the information to be provided pursuant to
6 paragraph (2) of subdivision (b) and deadlines for
7 supplying this information to the city, county, or regional
8 agency, so that it may be incorporated into the annual
9 report submitted to the board pursuant to Section 41821.

10 (d) A district is subject to the portion of a penalty
11 imposed, pursuant to Section 41850, upon a city, county,
12 or regional agency in which the district is located, that ~~the~~
13 ~~board—determines~~ is in proportion to the district's
14 responsibility for failure to implement that jurisdiction's
15 source reduction and recycling element and household
16 hazardous waste element, *as determined by that city,*
17 *county, or regional agency. The board shall not*
18 *determine the proportion of a district's responsibility as*
19 *part of its determination to impose penalties. The city,*
20 *county, or regional agency shall provide the district with*
21 *a written notice regarding the district's responsibility,*
22 *including the basis for determining the district's*
23 *proportional responsibility, and an opportunity for*
24 *hearing before the city, county, or regional agency's*
25 *governing body, before assessing the district a proportion*
26 *of the penalty imposed by the board.*

27 (e) A district may impose a fee in an amount sufficient
28 to pay for the costs of complying with this section. The
29 fees shall be assessed and collected in the same manner
30 as the fees imposed pursuant to Sections 41901 and 41902.

31 (f) This section shall become operative on July 1, 2001.

32 ~~SEC. 8.~~

33 *SEC. 11.* Section 41821.5 of the Public Resources Code
34 is amended to read:

35 41821.5. (a) Disposal facility operators shall submit to
36 counties information from periodic tracking surveys on
37 the disposal tonnages by jurisdiction or region of origin
38 that are disposed of at each disposal facility. To enable
39 disposal facility operators to provide that information,
40 solid waste handlers and transfer station operators shall

1 provide information to disposal facility operators on the
2 origin of the solid waste that they deliver to the disposal
3 facility.

4 (b) Recycling and composting facilities shall submit
5 periodic information to counties on the types and
6 quantities of materials that are disposed of, sold to end
7 users, or that are sold to exporters or transporters for sale
8 outside of the state, by county of origin. When materials
9 are sold or transferred by one recycling or composting
10 facility to another, for other than an end use of the
11 material or for export, the seller or transferrer of the
12 material shall inform the buyer or transferee of the
13 county of origin of the materials. The reporting
14 requirements of this subdivision do not apply to entities
15 that sell the byproducts of a manufacturing process.

16 (c) Each county shall submit periodic reports to the
17 cities within the county, to any regional agency of which
18 it is a member agency, and to the board, on the amounts
19 of solid waste disposed by jurisdiction or region of origin,
20 as specified in subdivision (a), and on the categories and
21 amounts of solid waste diverted to recycling and
22 composting facilities within the county or region, as
23 specified in subdivision (b).

24 (d) The board may adopt regulations pursuant to this
25 section requiring practices and procedures that are
26 reasonable and necessary to perform the periodic
27 tracking surveys required by this section, and that
28 provide a representative accounting of solid wastes that
29 are handled, processed, or disposed. Those regulations or
30 periodic tracking surveys approved by the board shall not
31 impose an unreasonable burden on waste handling,
32 processing, or disposal operations or otherwise interfere
33 with the safe handling, processing, and disposal of solid
34 waste.

35 (e) On or before ~~July 1, 2001~~ *January 1, 2002*, the board
36 shall submit a report to the Legislature that evaluates the
37 implementation of this section. The report shall include,
38 but not be limited to, all of the following:

39 (1) An evaluation of the accuracy of the disposal
40 reporting system under differing circumstances.

(2) The status of implementation of the disposal reporting system at the local level by waste haulers, landfills, transfer station and material recovery operators, and local agencies.

(3) The need for modification of the disposal reporting system to improve accuracy.

(4) Recommendations for regulatory and statutory changes needed to address deficiencies in the disposal reporting system.

(5) Recommendations to improve implementation and to streamline the reporting system, including ways to ~~assist small and rural cities, counties, and regional~~ assist agencies to meet the reporting and tracking requirements.

(f) The board shall convene a working group composed of representatives of stakeholder groups, including, but not limited to, cities, counties, regional agencies, the solid waste industry, recyclers, and environmental organizations, to assist the board in preparing the report required pursuant to subdivision (e).

~~SEC. 9.~~

SEC. 12. Section 41825 of the Public Resources Code is amended to read:

41825. (a) At least once every two years, the board shall review each city, county, or regional agency source reduction and recycling element and household hazardous waste element.

(b) If after a public hearing, which, to the extent possible, is held in the local or regional agency's jurisdiction, the board finds that the city, county, or regional agency has failed to implement its source reduction and recycling element or its household hazardous waste element, the board shall issue an order of compliance with a specific schedule for achieving compliance. The compliance order shall include those conditions that the board determines to be necessary for the local agency or regional agency to complete in order to implement its source reduction and recycling element or household hazardous waste element.

~~(c) The board shall establish procedures for issuing a notice of the board's intent to issue an order of compliance. The notice of intent shall be issued not less than 90 days prior to a proposed issuance of an order of compliance. The procedures shall provide for all of the following:~~

~~(1) Meeting and conferring with jurisdictions regarding conditions relating to a proposed order of compliance, with a first meeting occurring not less than 60 days prior to issuing an order of compliance.~~

~~(2) Specifying in the notice of intent all of the~~

(c) (1) The board shall confer with a jurisdiction regarding conditions relating to a proposed order of compliance, with a first meeting occurring not less than 60 days before issuing a notice of intent to issue an order of compliance.

(2) The board shall issue a notice of intent to issue an order of compliance not less than 30 days before the board holds a hearing to issue the notice of compliance. The notice of intent shall specify all of the following:

(A) The proposed basis for issuing an order of compliance.

(B) Proposed actions that board staff recommends are necessary for the jurisdiction to complete in order to implement its source reduction and recycling element or household hazardous waste element.

(C) Proposed staff recommendations to the board.

~~(3) Consideration of~~ *The board shall consider any information provided pursuant to subdivision (c) of Section 41821 if the proposed issuance of an order of compliance involves changes to a jurisdiction's calculation of annual disposal reduction.*

~~SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million~~

1 ~~dollars (\$1,000,000), reimbursement shall be made from~~
2 ~~the State Mandates Claims Fund.~~

3 ~~SEC. 11.~~

4 *SEC. 13. Section 41850 of the Public Resources Code*
5 *is amended to read:*

6 41850. (a) Except as specifically provided in Section
7 41813, if, after holding the public hearing and issuing an
8 order of compliance pursuant to Section 41825, the board
9 finds that the city, county, or regional agency has failed
10 to *make a good faith effort to* implement its source
11 reduction and recycling element or its household
12 hazardous waste element, the board may impose
13 administrative civil penalties upon the city or county or,
14 pursuant to Section 40974, upon the city or county as a
15 member of a regional agency, of up to ten thousand
16 dollars (\$10,000) per day until the city, county, or regional
17 agency implements the element.

18 (b) In determining whether or not to impose any
19 penalties, or in determining the amount of any penalties
20 imposed under this section, including any penalties
21 imposed due to the exclusion of solid waste pursuant to
22 Section 41781.2 ~~which that~~ results in a reduction in the
23 quantity of solid waste diverted by a city, county, or
24 regional agency, the board shall consider *whether the*
25 *jurisdiction has made a good faith effort to implement its*
26 *source reduction and recycling element or its household*
27 *hazardous waste element. In addition, the board shall*
28 *consider only those relevant circumstances* ~~which that~~
29 have prevented a city, county, or regional agency from
30 meeting the requirements of this division, including the
31 diversion requirements of paragraphs (1) and (2) of
32 subdivision (a) of Section 41780, including, but not
33 limited to, all of the following:

34 (1) Natural disasters.

35 (2) Budgetary conditions within a city, county, or
36 regional agency ~~which that~~ could not be remedied by the
37 imposition or adjustment of solid waste fees.

38 (3) Work stoppages ~~which that~~ directly prevent a city,
39 county, or regional agency from implementing its source

1 reduction and recycling element or household hazardous
2 waste element.

3 (4) The impact of the failure of federal, state, and
4 other local agencies located within the jurisdiction to
5 implement source reduction and recycling programs in
6 the jurisdiction on the host jurisdiction's ability to meet
7 the requirements of paragraph (2) of subdivision (a) of
8 Section 41780.

9 (c) In addition to the factors specified in subdivision
10 (b), the board shall consider all of the following:

11 (1) (A) ~~The extent to which a city, county, or regional~~
12 ~~agency has made good faith efforts to implement its~~
13 ~~source reduction and recycling element or household~~
14 ~~hazardous waste element.~~

15 (B) (i) ~~For the purposes of this paragraph, "good faith~~
16 ~~efforts" means all reasonable and feasible efforts by a city,~~
17 ~~county, or regional agency to implement those programs~~
18 ~~or activities identified in its source reduction and~~
19 ~~recycling element or household hazardous waste~~
20 ~~element, or alternative programs or activities that~~
21 ~~achieve the same or similar results.~~

22 (ii) ~~For purposes of this paragraph, "good faith efforts"~~
23 ~~may also include the evaluation by a city, county, or~~
24 ~~regional agency of improved technology for the handling~~
25 ~~and management of solid waste that would reduce costs,~~
26 ~~improve efficiency in the collection, processing, or~~
27 ~~marketing of recyclable materials or yard waste, and~~
28 ~~enhance the ability of the city, county, or regional agency~~
29 ~~to meet the diversion requirements of paragraphs (1) and~~
30 ~~(2) of subdivision (a) of Section 41780, provided that the~~
31 ~~city, county, or regional agency has submitted a~~
32 ~~compliance schedule pursuant to Section 41825, and has~~
33 ~~made all other reasonable and feasible efforts to~~
34 ~~implement the programs identified in its source~~
35 ~~reduction and recycling element or household hazardous~~
36 ~~waste element.~~

37 (iii) ~~In determining whether a jurisdiction has made a~~
38 ~~good faith effort, the board shall consider the~~
39 ~~enforcement criteria included in its enforcement policy,~~
40 ~~as adopted on April 25, 1995, or as subsequently amended.~~

1 ~~(2)~~—The extent to which a city, county, or regional
2 agency has implemented additional source reduction,
3 recycling, and composting activities to comply with the
4 diversion requirements of paragraphs (1) and (2) of
5 subdivision (a) of Section 41780.

6 ~~(3)~~

7 (2) The extent to which a city, county, or regional
8 agency is meeting the diversion requirements of
9 paragraphs (1) and (2) of subdivision (a) of Section
10 41780.

11 ~~(4)~~

12 (3) Whether the jurisdiction has requested and been
13 granted an extension to the requirements of Section
14 41780, pursuant to Section 41820, or an alternative
15 requirement to Section 41780, pursuant to Section 41785.

16 *(d) (1) For the purposes of this section, ‘good faith*
17 *effort’ means all reasonable and feasible efforts by a city,*
18 *county, or regional agency to implement those programs*
19 *or activities identified in its source reduction and*
20 *recycling element or household hazardous waste*
21 *element, or alternative programs or activities that*
22 *achieve the same or similar results.*

23 *(2) For purposes of this section ‘good faith effort’ may*
24 *also include the evaluation by a city, county, or regional*
25 *agency of improved technology for the handling and*
26 *management of solid waste that would reduce costs,*
27 *improve efficiency in the collection, processing, or*
28 *marketing of recyclable materials or yard waste, and*
29 *enhance the ability of the city, county, or regional agency*
30 *to meet the diversion requirements of paragraphs (1) and*
31 *(2) of subdivision (a) of Section 41780, provided that the*
32 *city, county, or regional agency has submitted a*
33 *compliance schedule pursuant to Section 41825, and has*
34 *made all other reasonable and feasible efforts to*
35 *implement the programs identified in its source*
36 *reduction and recycling element or household hazardous*
37 *waste element.*

38 *(3) In determining whether a jurisdiction has made a*
39 *good faith effort, the board shall consider the*

1 *enforcement criteria included in its enforcement policy,*
2 *as adopted on April 25, 1995, or as subsequently amended.*

3 *SEC. 14. No reimbursement is required by this act*
4 *pursuant to Section 6 of Article XIII B of the California*
5 *Constitution because a local agency or school district has*
6 *the authority to levy service charges, fees, or assessments*
7 *sufficient to pay for the program or level of service*
8 *mandated by this act, within the meaning of Section 17556*
9 *of the Government Code.*

10 *SEC. 15. This act is an urgency statute necessary for*
11 *the immediate preservation of the public peace, health,*
12 *or safety within the meaning of Article IV of the*
13 *Constitution and shall go into immediate effect. The facts*
14 *constituting the necessity are:*

15 *In order to assist local agencies in achieving the 50*
16 *percent solid waste diversion goals as required by Section*
17 *41780 of the Public Resources Code, at the earliest*
18 *possible time, it is necessary for this act to take effect*
19 *immediately.*

